

## United States Senate

WASHINGTON, DC 20510

November 30, 2022

The Honorable Lloyd J. Austin III  
Secretary of Defense  
1400 Defense Pentagon  
Washington, DC 20301

The Honorable Robin Carnahan  
Administrator, General Services Administration  
1800 F Street NW  
Washington, DC 20405

The Honorable Bill Nelson  
Administrator, National Aeronautics and Space Administration  
300 E Street, SW, Suite 5R30  
Washington, DC 20546

Dear Secretary Austin, Administrator Carnahan, and Administrator Nelson:

On November 14, 2022, the Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) issued a proposed rule titled “Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk.” This rule would require private entities that contract with the federal government to publicly disclose their greenhouse gas emissions—including emissions by third parties with which they work—and climate-related financial information. This rule would establish unrealistic, unachievable, and counterproductive green-energy standards in line with the unratified Paris Climate Agreement. It would impose significant costs on many businesses, reduce American jobs, and raise prices for American consumers. As a result, it would harm our national and economic security.

This proposed rule accurately concludes that “the Federal Government is the world's single largest purchaser of goods and services” and that “[p]ublic procurement can shift markets . . . and be a catalyst for adoption of new norms and global standards.” Therefore, if implemented, this rule will weaponize the purchasing power of the federal government to impose unrealistic and costly “Green New Deal”-style mandates on thousands of businesses with government contracts. The costs and burdens of these new mandates would be passed on to American taxpayers and would significantly impact the American economy by forcing businesses to spend significant time and resources implementing a political agenda.

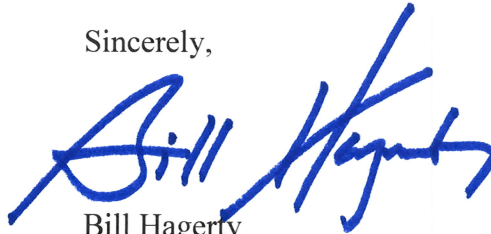
Given this broad impact, Congress should be setting government policy in this area and it is therefore imperative that this rule be submitted for congressional review. I write to confirm that you will comply with the requirements of the Congressional Review Act (CRA) in issuing this rule.

Under the CRA, an agency action that falls within the definition of a “rule” must be submitted to Congress for review before it can take effect. 5 U.S.C. § 801(a)(1)(A). “The definition of a rule under the CRA is very broad.” Government Accountability Office B-323772, at 3 (Sept. 4, 2012), available at <https://www.gao.gov/assets/b-323772.pdf>. In part, the CRA defines a rule as: “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.” 5 U.S.C. §551(4). This is not limited to directives requiring notice, public comment, or similar Administrative Procedure Act procedures.

Plainly, this rule’s proposed changes to the Federal Acquisition Regulation constitute substantial new requirements on federal contractors, and this is a rule for CRA purposes. So that Americans’ elected representatives may timely review this rule as required under federal law, please confirm by Monday, December 12, 2022 that you will submit it to Congress before it takes effect.

Thank you, and I look forward to your prompt reply.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Hagerty", with a stylized flourish extending from the end.

Bill Hagerty  
United States Senator